

RESTRICTED DATA

The term Restricted Data means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142.

ATOMIC WEAPON

The term Atomic Weapon means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, weapon prototype or a weapon test device.

SPECIAL NUCLEAR
MATERIAL

The term Special Nuclear Material means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of Section 51, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

SOURCE MATERIAL

The term Source Material means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of Section 61 to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time.

ATOMIC ENERGY

The term Atomic Energy means all forms of Energy released in the course of nuclear fission or nuclear transformation.

DOE review
completed.

SEP 14 1982

"CHAPTER 12. CONTROL OF INFORMATION

"SEC. 141. POLICY.—It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

Policy,
42 U.S.C.
sec. 2161.

"a. Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 144; and

"b. The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information.

"SEC. 142. CLASSIFICATION AND DECLASSIFICATION OF RESTRICTED DATA.—

Classification
and declassification
of restricted data.
42 U.S.C.
sec. 2162.

"a. The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

"b. The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

"c. In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

"d. The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as

DOE
DETERMINATION

JOINT DOE/DOD
DETERMINATION

FORMERLY
RESTRICTED
DATA

61 Stat. 498,
50 U.S.C.
403(d).

Department
of Defense
participation.
42 U.S.C.
sec. 2163.

defense information: *Provided, however,* That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with subsection 144 b.

"e. The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 102(d) of the National Security Act of 1947, as amended, and can be adequately safeguarded as defense information.

"SEC. 143. DEPARTMENT OF DEFENSE PARTICIPATION.—
The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under subsections 145 b. and 145 c.^{96 97} to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however,* That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further,* That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 145.

DOE OFFICE OF CLASSIFICATION AREAS OF CONCERN:

- A. RESTRICTED DATA (e.g., weapons development, testing, and materials production, Naval Reactors, etc.) and FORMERLY RESTRICTED DATA.
- B. SAFEGUARDS AND SECURITY (nuclear and nonnuclear)
- C. VERIFICATION AND CONTROL
- D. CODES AND INERTIAL CONFINEMENT FUSION
- E. INTELLIGENCE OR RELATED INFORMATION
- F. PETROLEUM SUPPLY INFORMATION
- G. INTERNAL NUCLEAR MATERIALS TRACKING
- H. NON-U.S. REACTOR CONVERSION STUDIES
- I. OPERATIONS CONCERNED WITH OTHER COUNTRIES

CAUTIONS:

- 1. Prior to 1947, RD (and therefore FRD) were not distinguished from "Defense Information."
- 2. Documents bearing obsolete "Restricted" markings must be reviewed for upgrading or declassification.
- 3. The "Official Use Only" marking was the equivalent of the "Restricted" marking in the former Atomic Energy Commission in the period 7-18-49 and 10-22-51.
- 4. The "Restricted" marking is an active classification marking of some foreign governments and international organizations.

FUNCTIONS TRANSFERRED TO DOE (E.O. 12038) FOR WHICH WE HAVE CLASSIFICATION RESPONSIBILITIES:

Functions of the Federal Energy Administration relating to energy policy and conservation and reports of petroleum and petroleum products.

Functions of the Federal Power Commission relating to the administration of the Emergency National Gas Act of 1977 and the Pacific Northwest River Basins Commissions.

Functions of the Secretary of the Interior relating to the Bonneville Power Administration and Columbia River Treaty.

Functions of the Atomic Energy Commission and the Energy Research and Development Administration including all functions vested by law in the Atomic Energy Commission that were transferred to the Administrator of the Energy Research and Development Administration and to DOE pursuant to the Energy Organization Act of 1978 (Public Law 93-438; 88 Stat 1223).

Special provision in the Emergency Preparedness and Mobilization functions relating to petroleum, gas solids, fuels, and electric power.

SAFEGUARDING CERTAIN UNCLASSIFIED INFORMATION

SEC. 210. (a)(1) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting after section 147 the following new section:

"SEC. 148. PROHIBITION AGAINST THE DISSEMINATION OF CERTAIN UNCLASSIFIED INFORMATION.--

"a. (1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, United States Code, the Secretary of Energy (hereinafter in this section referred to as the 'Secretary') shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to--

"(A) the design of production facilities or utilization facilities;

"(B) security measures (including security plans, procedures, and equipment) for the physical protection of (i) production or utilization facilities, (ii) nuclear material contained in such facilities, or (iii) nuclear material in transit; or

"(C) the design, manufacture, or utilization of any atomic weapon or component if the design, manufacture, or utilization of such weapon or component was contained in any information declassified or removed from the Restricted Data category by the Secretary (or the head of the predecessor agency of the Department of Energy) pursuant to section 142.

"(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

"(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

"(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in subsection a. (1)--

"(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

"(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

"(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

"b. (1) Any person who violates any regulation or order of the Secretary issued under this section with respect to the unauthorized dissemination of information shall be subject to a civil penalty, to be imposed by the Secretary, of not to exceed \$100,000 for each such violation. The Secretary may compromise, mitigate, or remit any penalty imposed under this subsection.

"(2) The provisions of subsections b. and c. of section 234 of this Act shall be applicable with respect to the imposition of civil penalties by the Secretary under this section in the same manner that such provisions are applicable to the imposition of civil penalties by the Commission under subsection a. of such section.

"c. For the purposes of section 223 of this Act, any regulation prescribed or order issued by the Secretary under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act."

(2) The table of contents at the beginning of such Act is amended by inserting after the item relating to section 147 the following new item:

"Sec. 148 Prohibition Against the Disclosure of Certain Unclassified Information."

(b) Section 181 of such Act (42 U.S.C. 2231) is amended--

(1) by striking out "or" before "safeguards information protected";

(2) by inserting "or information protected from dissemination under the authority of section 148" after "section 147"; and

(3) by striking out ", defense information, or such safeguards information," each place it appears and inserting in lieu thereof ", defense information, such safeguards information, or information protected from dissemination under the authority of section 148".

SNI

Review all requested documents and identify all information which may be SNI

Make a preliminary determination as to whether the unauthorized dissemination of the information in question could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons; or theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

Prepare a partial reply as soon as possible and within the legal time limits imposed by law. In addition to any other relevant language, the following language should be utilized to describe to the requestor the disposition of information potentially subject to the provisions of Section 148:

"Recently the Congress enacted Section 148 of the Atomic Energy Act of 1954 (42 USC 2168) which authorizes the Secretary of Energy to prohibit dissemination of certain unclassified information (Sensitive Nuclear Information) relating to :

Design of production facilities or utilization facilities;

Security measures relating to the protection of production or utilization facilities, nuclear materials contained in these facilities, nuclear materials in transit; or

Design, production, or utilization of atomic weapons or components thereof if such information was declassified or removed from the Restricted Data category;

if the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on public health and safety or the common defense by increasing the likelihood of illegal production of nuclear weapons; or theft; diversion, or sabotage of nuclear materials, equipment, or facilities.

We are in the process of reviewing your request in light of this new legislation, and we will provide a response by
(date) _____."

Forward all requests that may involve SNI, a list of responsive document(s), and the proposed response to the Principal Deputy Assistant Secretary for Defense Programs or the Assistant Secretary for Nuclear Energy, as appropriate, for final decision.

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PRINCIPAL PROVISIONS

- **INFORMATION CONTROL**
- **THRESHOLD DETERMINATIONS**
- **SANCTIONS**

INFORMATION CONTROL

- **UNCLASSIFIED INFORMATION**
- **PROHIBITS "UNAUTHORIZED DISSEMINATION"**
 - **FACILITY DESIGN**
 - **SECURITY MEASURES**
 - **WEAPON DESIGN, MANUFACTURE, UTILIZATION***

***RESTRICTED DATA**

THRESHOLD DETERMINATIONS

- **"SIGNIFICANT" ADVERSE EFFECT**
- **INCREASE LIKELIHOOD OF**
 - **ILLEGAL PRODUCTION**
 - **THEFT**
 - **DIVERSION**
 - **SABOTAGE**

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SANCTIONS

- **CIVIL**
- **\$100,000 (MAXIMUM)**
- **EACH VIOLATION**